```
1
    STEVEN H. GURNEE, ESQ. SB# 66056
    DAVID M. DANIELS, ESQ. SB# 170315
    NICHOLAS P. FORESTIERE, SB# 125118
2
    JOHN A. MASON, ESO. SB# 166996
 3
    GURNEE & DANIELS LLP
    2240 Douglas Boulevard, Suite 150
    Roseville, CA 95661-3805
4
    Telephone
                 (916) 797-3100
5
    Facsimile
                 (916) 797-3131
    Attorneys for Defendants
6
    ALDERWOODS GROUP, INC., PAUL
    HOUSTON, SERVICE CORPORATION
8
    INTERNATIONAL, SCI FUNERAL AND
    CEMETERY PURCHASING COOPERATIVE,
    INC., SCI EASTERN MARKET SUPPORT
10
    CENTER, L.P., SCI WESTERN MARKET
    SUPPORT CENTER, L.P. and SCI HOUSTON
11
    MARKET SUPPORT CENTER, L.P.
12
13
                             UNITED STATES DISTRICT COURT
14
                           NORTHERN DISTRICT OF CALIFORNIA
15
16
    WILLIAM HELM, et al., on behalf of
                                              CASE NO. 3:08-cv-01184 SI
17
    themselves and all other employees and former )
    employees similarly situated,
18
                                               [PROPOSED] ORDER STIPULATION OF
                                               DISMISSAL
19
                   Plaintiffs,
          VS.
20
    ALDERWOODS GROUP, INC. et al.
21
22
                   Defendants.
23
24
          Pursuant to the Stipulation of counsel and good cause appearing, the Court orders as
25
    follows:
26
                 Pursuant to Fed. R. Civ. P. 41(a), Plaintiffs voluntarily dismiss their claims against
27
    Service Corporation International, SCI Funeral and Cemetery Purchasing Cooperative, Inc., SCI
28
    [PROPOSED] ORDER STIPULATION OF DISMISSAL
                                                                                      1
    Case No.: 3:08-CV-01184 SI
```

Eastern Market Support Center, L.P., SCI Western Market Support Center, L.P., SCI Houston Market Support Center, L.P. and Paul A. Houston (collectively "non-Alderwoods Defendants") without prejudice.

- 2. If Alderwoods is found liable for damages in this action and all avenues of appeal have been exhausted and Alderwoods is required but unable to pay such damages, Plaintiffs may amend the Complaint in this action, even after jury verdict and appeals therefrom, to allege that SCI, SCI Funeral and Cemetery Purchasing Cooperative, Inc., SCI Eastern Market Support Center, L.P., SCI Western Market Support Center, L.P., SCI Houston Market Support Center, L.P. and Paul A. Houston are successors in interest to Alderwoods and liable to pay the damages, attorney's fees, and costs awarded against Alderwoods. The parties would be afforded a reasonable time to conduct discovery on this issue.
- 3. Defendants do not waive any defenses or arguments that may be available to them, except that Defendants will not raise any defenses of timeliness or jurisdiction based on time that passes from entry of this Stipulation through the deadline for amending the Complaint as set forth below; and Plaintiffs do not waive any arguments that any claims against Defendants relate back to the initial filing of the Complaint.
- 4. Any amendment to the Complaint under this Stipulation and Order shall be filed within 30 days after the date that Alderwoods fails to pay any judgment that stands against it after all avenues of appeal have been exhausted.
- 5. Plaintiffs withdraw their motion to compel pertaining to personal jurisdiction discovery (Docket No. 128), as the motion is rendered moot by Plaintiffs' voluntary dismissal of their claims against the non-Alderwoods Defendants in this action. Plaintiffs' withdrawal of their motion to compel in the instant action, however, has no impact upon their motion to compel also filed in the related action *Bryant*, *et al. v. SCI*, *et al.*, Case No. 08-1190-SI (Docket No. 117), which is unaffected by the instant Stipulation and Order and remains pending before this Court.

IT IS SO ORDERED: **AGREED TO:** /s/ Annette Gifford /s/ Nicholas P. Forestiere Dolin, Thomas & Solomon LLP Gurnee & Daniels LLP 2240 Douglas Boulevard, Suite 150 693 East Avenue Rochester, New York 14607 Roseville, California 95661 Telephone: (916) 797-3100 Telephone: (585) 272-0540 Attorneys for Plaintiffs Attorneys for Defendants

[PROPOSED] ORDER STIPULATION OF DISMISSAL

Case No.: 3:08-CV-01184 SI